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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,573	08/26/2003	Mohan Kalkunte	14221US02	4096
23446 7590 06/25/2007 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER DAFTUAR, SAKET K	
			ART UNIT 2151	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/648,573	<b>Applicant(s)</b> KALKUNTE ET AL.	
	<b>Examiner</b> Saket K. Daftuar	<b>Art Unit</b> 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Response to Amendment***

1. This action is response to the amendment filed on May 31<sup>st</sup>, 2007. Claims 1-30 are presented for the further examination.

***Response to Arguments***

2. Applicant's arguments filed May 31<sup>st</sup>, 2007 have been fully considered but they are not persuasive.
3. As per arguments filed on May 31<sup>st</sup>, 2007, applicant argues to the substance that:
  - a. Garnett failed to discloses determining at least one data-processing function associated with said at least one received packet, based on said at least one received packet.

First of all examiner thanks applicant to clarify "functions" as it was really unclear to the examiner. In response to applicant argument a), Garnett does discloses determining at least one data-processing function associated with said at least one received packet, based on said at least one received packet (see column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13).

Garnett briefly discloses in Figures 19a and 19b that load balance is performed on all of the incoming "data traffic". Also, in column 31, line 49 – column 34, line 40, Garnett briefly discloses why one ordinary skilled in the art would be needing a load balancer and the functionality of load balancing. In addition, Garnett also discloses:

“Computer systems require management in many different ways, for example, load distribution, access control, secure transaction management and many other functions which may be performed with greatest reliability and/or speed by dedicated hardware. That is not to say that such functions may not be performed by a standard processing cartridge 43 programmed using appropriate application software, merely that specialist hardware (in the form of a non-standard processing cartridge) may provide reliability, performance and/or cost benefits.”  
[Column 31, lines 53-62]

It is clear that Garnett is referring to computer systems management in many different ways such functions include load distribution, access control, and secure transaction management and many others with greatest reliability and/or speed. One ordinary skilled in the art would know all such functions are related to data-processing, data management, and data access control as all of them requires reliable, fast, secure data processing or data management by dedicated computer hardware. Garnett also discloses:

“Server load based weighting involves monitoring each server available to the load balancer to determine the current load of that server. The weight for each server is adjusted based on the current load of that server relative to the current load of other servers. To perform the load monitoring usually requires a software agent running on each server to determine the load experienced by that server. Response time based

weighting involves measuring an elapsed time between transmitting a request to a server and receiving a response from that server."

Therefore, one ordinary skilled in the art would know the weighted load on each server is "data" and each data loads are monitored using a software agent running on each server to determine the load experienced by that particular server. Therefore, Garnett does discloses determining at least one data-processing function associated with said at least one received packet, based on said at least one received packet

b. Garnett failed to disclose steering said one or more received packet to at least one of a plurality of blade servers that handles said determined data-processing function.

In response to applicant argument b) Garnett discloses steering said one or more received packet to at least one of a plurality of blade servers that handles said determined data-processing function (see column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13). In addition to the disclosure of Garnett from above argument Garnett also discloses:

"Each of the servers 505 is connected to the load balancer 501 via a switch 503. Thus incoming data packets arrive at the load balancer and are routed there through to a selected server 505." [Column 32, lines 59-65].

One ordinary skilled in the art would interpret steering said one or more received packet to at least plurality of blade servers as routing incoming data

packets via load balancer to a selected server where Garnett mentioned that selected server is a server blade that include a processor and memory can be configured by means of software, firmware or hardware to provide a special purpose function [see column 31, lines 25-27]. Therefore, one ordinary skilled in the art would know that Garnett discloses steering said one or more received packet to at least one of a plurality of blade servers that handles said determined data-processing function.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Garnett et al. U.S. Patent Number 7,032,037 B2 (hereinafter Garnett).

As per claim 1, Garnett discloses a method for processing data in a server, the method comprising: receiving at least one [data packet] packet (see column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13); determining at least one function [for example: load balancing, load distribution, access control, secure transaction management and many other

function, see column 31, lines 53-57] associated with said at least one received packet (see column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13); and steering [forwarding or transmitting outgoing packet] said at least one received packet to at least one of a plurality of blade servers that handles said determined function (see column 31, lines 25-27; column 32, lines 59-65 column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13).

As per claim 2, Garnett discloses generating at least one association between a particular packet characteristic [data packet] of said packet and a particular data processing function associated with said at least one packet (see column 31, lines 25-27; column 31, lines 53-57; column 32, lines 59-65 column 32, line 55 – column 33, line 44).

As per claim 3, Garnett discloses said particular packet characteristic is at one or more of a packet type [data packet itself is one packet type], a packet field and a flag (see column 31, lines 25-27; column 31, lines 53-57; column 32, lines 59-65 column 32, line 55 – column 33, line 44).

As per claim 4, Garnett discloses assigning [data packet arrives on load balancer decides which server to which the packet is to be forwarded and packet is forwarded to the selected server as assigning at least one of said plurality of blade servers for handling said particular function] at least one of said plurality of blade servers for handling said particular data processing function (see column 32, line 55 – column 33, line 44).

As per claim 5, Garnett discloses determining which of said plurality of blade servers handles said determined at least one data processing function associated with said at least one received packet (see column 32, line 55 – column 33, line 44).

As per claim 6, Garnett discloses processing said steered [routing load balanced packets] at least one received packet by said one or more of a plurality of blade servers that handles said determined data processing server function (see column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13).

As per claim 7, Garnett discloses assigning a default blade server, selected from said plurality of blade server, for handling said at least one received packet (see column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13).

As per claim 8, Garnett discloses steering said at least one packet to said default blade server if at least one of: said at least one received packet is unrecognized (see column 32, line 55 – column 33, line 44 and column 34, lines 15-40); and said at least one received packet contains a particular data (see column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13).

As per claim 9, Garnett discloses controlling steering of said at least one packet by at least one of said plurality of blade servers (see column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13).



As per claim 10, Garnett discloses said at least one of said plurality of blade servers controlling said steering is a switch [an outgoing packet is transmitted from the processing cartridge [blade] to the switch] blade (see column 32, line 55 – column 33, line 44 and column 35, line 7 - column 36, line 13).

As per claims 11-20, claims 11-20 are machine-readable claims of method claims 1-10, respectively. They do not teach or further define over the limitation as recited in claims 1-10. Therefore, claims 11-20 are rejected under same scope as discussed in claims 1-10, supra.

As per claims 21-30, claims 21-30 are system claims of method claims 1-10, respectively. They do not teach or further define over the limitation as recited in claims 1-10. Therefore, claims 21-30 are rejected under same scope as discussed in claims 1-10, supra.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saket K. Daftuar whose telephone number is 571-272-8363. The examiner can normally be reached on 8:30am-5:00pm M-W.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SKD

  
**ZARNI MAUNG**  
SUPERVISORY PATENT EXAMINER